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8  
9 **BEFORE THE**  
**PHYSICAL THERAPY BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues Against: Case No. 1D 2001 62796

12 **FARIBORZ NEZAMABADI**  
13 2775 North Hwy. 360 #1235  
Grand Prairie, Texas 75050

**STATEMENT OF ISSUES**

14 Respondent.  
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17 Complainant alleges:

18 **PARTIES**

19 1. Steven K. Hartzell (Complainant) brings this statement of issues solely in his  
20 official capacity as the Executive Officer of the Physical Therapy Board of California, Department  
21 of Consumer Affairs.

22 2. On or about April 22, 2001, FARIBORZ NEZAMABADI (Respondent)  
23 submitted an application for a physical therapist license to the Physical Therapy Board of California.  
24 The application was denied on or about February 5, 2002.

25 **JURISDICTION**

26 3. This Statement of Issues is brought before the Physical Therapy Board of

1 California (Board), under the authority of the following sections of the Business and Professions  
2 Code (Code).

3 4. Section 2609 of the Code states:  
4 The board shall issue, suspend, and revoke licenses and approvals to  
5 practice physical therapy as provided in this chapter.

6 5. Section 480 of the Code states, in pertinent part:  
7 (a) A board may deny a license regulated by this code on the grounds  
8 that the applicant has one of the following:



...

9 (3) Done any act which if done by a licentiate of the business or  
10 profession in question, would be grounds for suspension or revocation  
11 of license.



...

12 The board may deny a license pursuant to this subdivision only if the  
13 crime or act is substantially related to the qualifications, functions or  
14 duties of the business or profession for which application is made.

14 Section 141 of the Code states:

15 (a) For any licensee holding a license issued by a board under the  
16 jurisdiction of the department, a disciplinary action taken by another  
17 state, by any agency of the federal government, or by another country  
18 for any act substantially related to the practice regulated by the  
19 California license, may be a ground for disciplinary action by the  
20 respective state licensing board. A certified copy of the record of the  
21 disciplinary action taken against the licensee by another state, an  
22 agency of the federal government, or another country shall be  
23 conclusive evidence of the events related therein.

24 (b) Nothing in this section shall preclude a board from applying a  
25 specific statutory provision in the licensing act administered by that  
26 board that provides for discipline based upon a disciplinary action  
27 taken against the licensee by another state, an agency of the federal  
government, or another country.

23 5. Section 2660.1 of the Code states:

24 A patient, client, or customer of a licentiate under this chapter is  
25 conclusively presumed to be incapable of giving free, full, and  
26 informed consent to any sexual activity which is a violation of Section  
27 726.

6. Section 726 of the Code states:

The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division, under any initiative act referred to in this division and under Chapter 17 (commencing with Section 9000) of Division 3.

This section shall not apply to sexual contact between a physician and surgeon and his or her spouse or person in an equivalent domestic relationship when that physician and surgeon provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship.

6. Section 2661.5 of the Code states:

(a) In any order issued in resolution of a disciplinary proceeding before the board, the board may request the administrative law judge to direct any licensee found guilty of unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of the investigation and prosecution of the case.

(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in any event be increased by the board. When the board does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of the assessed costs specified in the proposed decision.

(c) When the payment directed in an order for payment of costs is not made by the licensee, the board may enforce the order of payment by bringing an action in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee directed to pay costs.

(d) In any judicial action for the recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(e) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license or approval of any person who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license or approval of any person who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one year period for those unpaid costs.

(f) All costs recovered under this section shall be deposited in the Physical Therapy Fund as a reimbursement in either the fiscal year in which the costs are actually recovered or the previous fiscal year, as the board may direct.

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6 **CAUSE FOR DENIAL OF APPLICATION**


7 **(Act Committed Constituting Grounds for Suspension or Revocation of a Licentiate)**

8 **[Bus. & Prof. Code ' ' 480 (a) (3) and 141 (a)]**

9 7. Respondent's application is subject to denial under sections 480 (a) (3) and 141

10 (a) of the Code in that in April 1998 the Massachusetts Board of Allied Health Professions

11 disciplined Respondent=s physical therapist license. The circumstances are as follows:

12 a. Respondent and the Massachusetts Board of Allied Health Professi

13 entered into a Consent Agreement in Docket No. AH-98-013, effective on or about April 12, 1998,

14 whereby Respondent=s Massachusetts physical therapist license was placed on two years probation

15 with terms and conditions including Respondent completing a training course in sensitivity training

16 and maintenance of professional boundaries. The Consent Agreement was entered into as a result of

17 a complaint by a female patient of Respondent who had alleged that Respondent had sexually

18 molested her during a treatment session.

19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein

21 alleged, and that following the hearing, the Physical Therapy Board of California issue a decision:

22 1. Denying the application of FARIBORZ NEZAMABADI for a physical

23 therapist license.

24 2. Taking such other and further action as deemed necessary and proper.

25 DATED: June 14, 2002.

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Original signed by Steven K. Hartzell  
STEVEN K. HARTZELL  
Executive Officer  
Physical Therapy Board of California  
Department of Consumer Affairs  
State of California  
Complainant